

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.771 OF 2006

IN

APPEAL (L) NO.118 OF 2006

IN

WRIT PETITION NO.2373 OF 2003

...

Babulal Ramlal Walmiki ...Appellant

v/s.

M/s.Siemens Limited ...Respondent

...

Mr.R.D.Bhatt for the Appellant.

None for the Respondent.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 19TH JULY, 2007

P.C.:

1. This Notice of Motion is taken out for condonation of delay in filing the Appeal.

2. Assuming that there is sufficient cause shown for condonation of delay, we heard the learned counsel on merits.

3. The charge against the Appellant/employee was of theft. In departmental inquiry the charge was held to have been proved and punishment was imposed. The Labour Court has held that the enquiry is fair and proper and finding on charge was also proper. The Labour Court, however, interfered with the punishment and reduced the punishment. The employee and employer both challenged the award of the Labour Court in Writ Petition. The learned single Judge by a detailed judgment has held that the charges were proved and the inquiry was proper.

4. The learned Counsel appearing for the Appellant submits that because there was a criminal prosecution

on the same charge of theft and in the criminal court the Appellant was acquitted, there was no justification in imposing punishment on the Appellant. But that aspect of the matter has also been considered by the learned single Judge and the learned single Judge has found that in the criminal court the acquittal was not on merits and apart from that the right of the employer to hold departmental inquiry of misconduct cannot be taken away, only because that misconduct also amounts to criminal offence for which the employee is tried.

5. After having heard the learned Counsel for the Appellant, we find no justification to interfere with the order passed by the learned single Judge.

6. Notice of Motion and the Appeal are disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)